



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

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March 12<sup>th</sup>, 2003

Minutes of the March 12<sup>th</sup>, 2003, meeting of the Commission on Governmental Ethics and Election Practices held in the Commission's Meeting Room, PUC Building, 242 State Street, Augusta, Maine.

Present: Acting Chair: Hon. James Donnelly; Members: Hon. Alan Harding, Esq. (telephonically), Dr. Terrence J. MacTaggart and Hon. David Ott; Counsel Phyllis Gardiner, Esq.; Commission Assistant Kendra Danforth and Commission Auditor Andrew Seaman.

Absent: Hon. Andrew Ketterer.

At 10:05 a.m., Acting Chair Donnelly convened the meeting, announcing consideration of items on the published agenda as follows:

**Agenda Item #1: Ratification of Minutes**

Dr. MacTaggart moved, Mr. Ott seconded, and Members voted unanimously to adopt the minutes of the January 8<sup>th</sup>, 2003 meeting as submitted.

**Agenda Item #3A: Representative John Piotti**

By letter dated January 31<sup>st</sup>, 2003, Rep. Piotti requested an advisory opinion on whether certain specific legislative activities would create a possible conflict of interest situation. Rep. Piotti presented oral testimony to the Commission. Rep. Piotti is the director for Coastal Enterprises Inc. (CEI) which currently has a contract to administer a Farms For Future (FFF) program consisting of \$200,000 in implementation grants for farmers. All state funds go directly to the farmers and none flows to the organization for administration costs. The only benefit CEI would receive is by making it a bigger program that CEI is administering. Since the date of the letter, the bill was rewritten from an appropriation bill to a bond bill. It would be processed through the States competitive bid process. Some specific activities referenced in the original letter are now mute. Members discussed the role of the Commission in prior advisory opinions and other prior experiences as legislators. Donnelly received clarification from Rep. Piotti on the following points. As the bill is written today, it would be processed through the States competitive bid process. All state funds go directly to the farmers as implementation grants and none would flow to CEI for administration costs. All administration costs are raised by CEI, combination of Federal & private foundation money. State money helps CEI to build a better program and makes it easier to raise money. No employment positions or salaries of CEI will depend on

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whether CEI wins the contract. However, the person who heads up the FFF program for CEI might not have a job if the contract is not received. Council cited Title 1 Chapter 25 §1014(1) (A) for reference. CEI is the distinct enterprise as stated in §1014(1) (A) but what is the difference is that CEI is not getting direct financial benefit from State funds and that the bid would be processed through the State's competitive bid process. Members discussed whether to address each individual activity that was requested in the letter or to address all them taken as a whole. No different levels of involvement in each specific activity, they should be viewed as the same level of involvement. Members further discussed whether they should give an opinion on the appearance of a conflict of interest situation. Harding motioned, it does not appear that the issue presented falls within the definition of State Law [1 M.R.S.A. §1014(1) (A)] and therefore, there is no apparent conflict of interest situation. While a conflict of interest does not exist, we caution you to consider the appearance of impropriety in any situation that arises in this matter. Motion seconded by David Ott and members voted unanimously for the motion.

**Agenda Item #3B: Representative H. Sawin Millett's letter dated February 7<sup>th</sup>, 2003**

By letter dated February 7<sup>th</sup>, 2003, Rep. Millett requested an advisory opinion on whether a possible conflict of interest situation would exist if he accepted a winning bid from the Department of Administration and Financial Services (DAFS) to serve as the "Dean" of the Maine Leadership Institute (MLI). Rep. Millett presented oral testimony to the Commission. Rep. Millett already serves as the "Dean" through a "sole source" contract with the State. The Attorney General's (AG) office advised he should not enter into a successor contract for similar services unless he was selected as the successful bidder under a competitive bidding contract (RFP). DAFS processed the renewal bid through the State's competitive bidding process (RFP). Rep. Millett won the RFP and was waiting for the Commission's opinion before accepting the contract. Council cited State Law [1 M.R.S.A. §1014(3)(A)] which presumes a conflict of interest exists when a legislator has financial interest in a contract for services with the State if the contract was not covered by public notice and the competitive bidding process. Member discussed the State's RFP process and information presented. Dr. MacTaggart motioned, it does not appear that the issue presented falls within the definition of State Law [1 M.R.S.A. §1014(3)(A)] and therefore, there is no apparent conflict of interest situation in accepting the bid. Motion seconded by David Ott and members voted unanimously for the motion.

**Agenda Item #4: Other**

Members discussed the Commission's Budget and the proposal of the legislature to transfer an additional \$225,000 from the Maine Clean Election Fund (MCEF) to the State's general fund. Members wanted to construct a model that would project cash balances based on specific estimated criteria. The outcome of the projections would be used to justify the Commission's recommendation for the \$225,000 transfer.

**Agenda Item #5: Executive Session**

At 11:28 a.m., Alan Harding moved, Mr. Ott seconded, and Members voted unanimously to go into executive session pursuant to the authority of 1 M.R.S.A. §405(6)(A) to consider

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Commission personnel matters. That discussion concluded at 3:10 p.m. No action was taken in executive session that required ratification in public session.

There being no further business, by unanimous consent, the Commission adjourned at 3:10 p.m.

Respectfully submitted,

William C. Hain, III  
Director